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July 11, 1996

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Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98

Dear Mr. Caton:

This letter confirms that Douglas Kinkoph and I, on behalf of LCI International Telecom Corp. ("LCI"), met today with Richard K. Welch, Chief of the Policy Division, and Kalpak S. Gude of the Common Carrier Bureau regarding the comments filed by LCI in the above-referenced proceeding. The attached materials were distributed at the meeting.

Sincerely yours,

Robert J. Aamoth

cc: Kalpak S. Gude (FCC)
Richard K. Welch (FCC)

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LCI COMMENT SUMMARY

CC DOCKET NO. 96-98

JULY 11, 1996

SECTION 251(C) ENTITLES ALL CARRIERS TO OBTAIN EXCHANGE ACCESS PURSUANT TO CO-CARRIER ARRANGEMENTS

I. For long distance carriers who wish to enter the full-service market, the purchase of network elements under Section 251(c)(3) will be the most robust local entry option. (However, entry through local exchange resale under Section 251(c)(4) will be an essential interim option for all carriers, and an important permanent entry option for many carriers.)

A. Section 251(c)(3) permits the new entrant to design and implement its own services at economically efficient rates.

B. Because a new entrant fully compensates the ILEC for the cost of the network facilities that serve the end user, the new entrant controls access as well as local exchange services to and from the end-user customer. Any plan that would allow ILECs to keep access revenues even when their business relationship with the end-user customer terminates would be the functional equivalent of staying the implementation of Section 251(c)(3).

C. Section 251(c)(3) entitles any requesting carrier to purchase network elements in order to combine them into new services; the requesting carrier need not use any non-ILEC local facilities. A requirement that a new entrant use some non-ILEC facilities would be contrary to Congress' intent and the statutory language, and it would be an administrative and regulatory nightmare for the FCC to implement and enforce such a requirement.

D. Any adverse revenue impact upon the ILECs will be gradual and incremental. Implementing Section 251(c)(3) will not be like the Oklahoma land rush. Once the FCC adopts rules, it will take months if not years for all of the following to occur: (i) the ILECs' compliance with applicable rules; (ii) negotiated co-carrier arrangements to take advantage of those rules; (iii) the creation of business plans by new entrants to enter the local market based upon network elements; (iv) establishing the capability to provide services based upon network elements; and (v) marketing to win local customers away from the ILECs. Also, new entrants will implement Section 251(c)(3) on a phased geographic basis, and many carriers will not seek to enter the local market through purchasing network elements at all. There is no need for transition rules to protect ILECs from competitive new entry under Section 251(c)(3).

II. Carriers who wish to remain stand-alone long distance providers are entitled to obtain stand-alone exchange access under Section 251(c)(2). By its language, Section 251(c)(2) entitles every carrier to enter into co-carrier arrangements with ILECs to obtain stand-alone exchange access for its own long distance services.

III. The FCC has proposed to exclude exchange access from Section 251(c)(2), or at least to make it available only to carriers who plan to offer exchange access to third parties. That proposal could not be implemented and ultimately would fail to prevent long distance carriers from obtaining stand-alone exchange access at co-carrier rates.

A. The FCC's proposal would result in an ILEC charging one rate to terminate "local" traffic while charging a separate, presumably higher rate to terminate "toll" traffic, even though there are no cost differences between the two.

(i) The terms "local" and "toll" are arbitrary; they merely reflect historical marketing and pricing decisions by ILECs. A local/toll distinction would stunt competition regarding service and pricing areas contrary to Congress' intention.

(ii) Defining, policing and auditing the local/toll distinction to preserve access subsidies would be a costly nightmare for the FCC, state commissions, the industry and, ultimately, consumers.

B. The industry would develop new business structures and entities to obtain exchange access from ILECs pursuant to Section 251(c)(2) for the purpose of "offering" such access to long distance carriers at rates below current access charge rates.

IV. There is industry consensus that, at the end of the day, when two carriers purchase the same service or facility from the same local exchange carrier, they should pay the same cost-based rate. (See USTA Comments at 3; GTE Comments at 39; SBC Comments at 59; U S West Comments at 61.)

A. However, the "end of the day" will never come if the FCC excludes access from Section 251(c)(2). Should the FCC find exchange access to be outside of Section 251(c)(2), then exchange access will continue to be subject to jurisdictional separations and states will have jurisdiction over intrastate access charges. In that situation, the FCC would never have the ability, through access reform or otherwise, to remove rate discrimination based upon the identity of the carrier or the traffic. The window of opportunity for the FCC to harmonize traditional carrier-to-customer access charges, and co-carrier arrangements under Section 251(c), closes on August 8 unless the FCC interprets Section 251(c)(2) to entitle carriers to obtain stand-alone exchange access at cost-based rates pursuant to co-carrier arrangements.

V. The ILECs argue that permitting long distance carriers to obtain stand-alone exchange access pursuant to co-carrier arrangements at cost-based rates would have an adverse impact upon their access revenue stream and could lead to local rate increases.

A. This is a transition issue, and LCI supports the CompTel interim plan. Under that plan, the FCC would stay its Section 251/252 pricing rules so that long distance carriers would continue to pay intrastate and interstate access charges for stand-alone exchange access for an interim period coinciding with the FCC's universal service proceeding. The FCC has the authority to adopt this plan; it previously stayed rules implementing statutory provisions when the FCC implemented the Omnibus Budget Reconciliation Act of 1993.